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PACIFIC  TELESIS
Group-Washington

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

July 27, 1994

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William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *RM-8491 - Petition For Relief From Unjust And Unreasonable Discrimination In
The Deployment of Video Dialtone Facilities; Petition For Rulemaking To Adapt
The Section 214 Process To The Construction of Video Dialtone Facilities*

On behalf of Pacific Bell, please find enclosed an original and six copies of its "Reply
Comments" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me
should you have any questions or require additional information concerning this matter.

Sincerely,



Enclosures

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JUL 27 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Petition For Relief From
Unjust And Unreasonable
Discrimination In The
Deployment of Video Dialtone
Facilities

RM-8491

Petition For Rulemaking
To Adapt The Section 214 Process
To The Construction of Video
Dialtone Facilities

REPLY COMMENTS OF PACIFIC BELL

Pacific Bell respectfully submits its Reply
Comments opposing the Petitions for Relief and for Rulemaking
filed by the Center for Media Education, et. al.
("Petitioners") in the above-captioned proceeding.

- I. NO PERSUASIVE EVIDENCE OF REDLINING BY PACIFIC BELL HAS
BEEN SUBMITTED THAT WOULD WARRANT EITHER THE PETITION
FOR RELIEF OR PETITION FOR RULEMAKING.

Petitioners have not provided any further evidence
to support its allegations that Pacific Bell's initial
deployment of video dialtone facilities is unreasonably

discriminatory based on income, ethnicity or race. However, Petitioners do now concede that "This case is not about intentional discrimination."¹ As to Pacific Bell, that claim would be impossible to support in light of our well-documented long-standing commitment and our ongoing efforts to make telecommunication benefits available to all citizens within our service area. As further evidence of our commitment,² most recently Pacific Telesis and Pacific Bell and the Greenlining Coalition,³ an alliance of consumer advocates, pledged to work toward a "good-faith-effort" goal

¹ Comments, Center for Media Education, et. al., dated July 12, 1994, ("Petitioners' Comments"), p. 2

² Pacific Bell's Opposition describes several examples of its commitment. Pacific Bell's Opposition to Petitions for Relief and Petition for Rulemaking, dated July 12, 1994, pp. 6 & 7. In addition, in 1984, Pacific Bell entered into an agreement with the NAACP which addresses achieving universal service for African Americans and other ethnic minority communities. Similarly, in 1987, we entered into agreements with the Hispanic Association on Corporate Responsibility (a coalition of 12 Hispanic groups including the National Council of La Raza) and in 1993, with the Asian Pacific Community Forum. These groups convene annually with Pacific Bell executive leadership to further the achievement of universal service in these communities, resulting in Pacific's successful outreach to all Californians.

³ The Greenlining Coalition consists of 18 organizations such as the Mexican American Political Association, California Coalition of Hispanic Organizations, California Black Chambers of Commerce, Black Business Association, Chinese for Affirmative Action, and the Center for Southeast Asian Refugee Resettlement.

of 95% telephone penetration for Hispanics, Asian Pacific Americans and African Americans within five years.⁴ Any suggestion of intentional redlining must be rejected as meritless.

Petitioners now claim that, while perhaps unintended, the effect of our initial deployment plans is unreasonably discriminatory. However, neither Petitioner nor any commentor have provided any further evidence to support that claim. We have already shown that Petitioners' original evidence as to Pacific Bell is lacking. We pointed out the deficiencies in Dr. Cooper's study. Petitioners' responses attempting to justify the inadequate analysis are not persuasive.⁵ Dr. Cooper's excuse for not including the Los Angeles area in his evaluation is particularly hollow.⁶

⁴ Pacific Bell's commitment to access for all Californians has also included citizens with special needs. To that end Pacific Bell's advanced broadband technology plans have included line 21 closed caption capability as suggested by NCI. Comments of the National Captioning Institute, Inc., dated July 12, 1994 ("NCI"). We recently published the required network disclosure document that addresses the analog broadcast network interface which supports a closed caption feature. Pacific Bell PUB L-780024 PB/NB, Video Dialtone Service NTSC Analog Broadcast Network Interface, July 8, 1994.

⁵ Petitioners' Comments, pp. 2, 8.

⁶ Petitioners' Comments, Affidavit of Dr. Mark N. Cooper, p. 4.

Contrary to Dr. Cooper's claim, Pacific Bell's application for the LA area contains not one but nine pages of very detailed maps including street names.⁷

II. THE COMMISSION SHOULD DISREGARD COMMENTS THAT SUGGEST DELAYING THE PUBLIC INTEREST BENEFITS OF VIDEO DIALTONE.

The Commission authorized video dialtone service because of the public interest benefits that flow from permitting carriers limited participation in the video marketplace.⁸ Commentors that directly or indirectly suggest delaying the consideration or grant of pending applications until resolution of these issues do not provide any persuasive explanation of why it is in the public interest to delay the delivery of services to the citizens who will be served by the initial deployments. The recommendations that

⁷ See Pacific Bell Application, W-P-C 6915, Exhibit 1, Maps and Diagram.

⁸ Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, Second Report and Order, Recommendation to Congress and Second Further Notice of Proposed Rulemaking, 7 FCC Rcd 5781, para. 25 (1992).

the Commission should create additional committees⁹ or boards should be rejected as further extending the \$214 review process with resulting delay in delivering the promised public benefits of video dialtone.

In addition to commentators suggesting delay, several commentators use this proceeding as an opportunity to raise issues that are already before the Commission in petitions for reconsideration or on appeal.¹⁰ These comments should be rejected as improper petitions for reconsideration.

⁹ Comments of the Alliance for Public Technology, dated July 12, 1994, ("APT"), p. 3 (suggesting a permanent Universal Service Advisory Committee); Comments of Michigan Public Service Commission Staff, June 28, 1994 (suggesting a federal-state Joint Board.)

¹⁰ Comments of The Association of America's Public Television Stations, dated July 12, 1994, ("APTS"), p. 2. APTS and CPB reiterate its request for reconsideration of carriage of public telecommunications services at no charge or reduced rates. Joint Petition for Reconsideration of the Association of America's Public Television Stations and Corporation for Public Broadcasting, dated October 9, 1992. The Comments of Alliance for Communications Democracy, et. al. dated July 12, 1994 ("Local Community Coalition") reiterates its appeal of the FCC's exercise of jurisdiction as disturbing state and local franchising authority. Mankato Citizens Tel. Co. v. FCC, No. 92-1404, (D.C. Cir. Sept. 9, 1992.) (held in abeyance pending FCC action on petitions for reconsideration).

III. A UNIVERSAL SERVICE POLICY FOR ADVANCED SERVICES
WARRANTS COMPREHENSIVE REVIEW.

Pacific Bell is committed to the statewide deployment of advanced telecommunications facilities that will provide universal access to advanced services, including video dialtone. Nonetheless, commentors are correct that a host of issues concerning universal service must be resolved before universal service viz-a-viz advanced services can be adopted for carriers.

Commentors are also correct in urging that the inquiry occur in a comprehensive examination of universal service issues. We also agree with APT that the fundamental concern of information access applies to the entire National Information Infrastructure.¹¹ Video dialtone is only one of the potential services likely to result from technological advancements. Focusing only on video dialtone would be shortsighted. Instead, the Commission should look at the larger context of universal service obligations for advanced services. In fact, this topic could be included in anticipated federal and state proceedings. The Commission is expected to establish a proceeding that will review universal

¹¹ APT, p. 1

service obligations.¹² Likewise, the California Public Utilities Commission has signaled its intention to begin a similar proceeding.¹³

The current universal service model relates to basic telephone services. That model is already being reexamined. The universal service obligation and mechanisms that were developed for a monopoly service may not continue to be valid when applied to a competitive service. Indeed, as telephone services become competitive, regulators have begun to question some of the foundational supports of universal service such as statewide averaged pricing and the economic subsidy of basic telephony provided by other products. While video dialtone is a common carriage transport system like telephony, it will not be a monopoly service but a competitive service. Common carriage transport coupled with video programming will compete with the video transport and programming services provided by cable TV and

¹² Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Dkt. No. 80-286, Recommended Decision, 9 FCC Rcd. 334 (1993).

¹³ Public Utilities Commission of the State of California, Public Agenda No. 2904, Utility and Transportation Orders, Orders Held Over, Item H-3, Rulemaking on the Commission own motion to Implement Local Telecommunications Competition, Establish Technology-Neutral Standards and Protect Universal Service.

broadcast TV as well as newer services such as IVDS, LMDS and MMDS.¹⁴ Thus the prototypical universal service concepts that were suitable for monopoly services may not be applicable. Instead a new model based on considerations of competitive services will be required. Pacific Bell intends to participate fully in the proceedings that will examine the fundamental issues of universal service as applied to new technologies and services. Notwithstanding the need to

¹⁴ These video transport systems, however, lack the unique common carriage characteristic which distinguishes the public interest value of video dialtone.

formulate these policies, a rulemaking as proposed by
Petitioners is not the appropriate or efficient forum to do
so.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Alex Kositsky, hereby certify that copies of the foregoing "REPLY COMMENTS OF PACIFIC BELL" re Petitions for Relief and for Rulemaking filed by the Center for Media Education et. al. were served by hand or by first-class United States mail, postage prepaid, upon the parties appearing on the attached service list this 27th day of July, 1994.

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